



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/213,858	12/16/98	MORGAN	S AT9-98-344

LM02/1003  
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EXAMINER

ARMSTRONG, A

ART UNIT	PAPER NUMBER
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2741

DATE MAILED: 10/03/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/213,858

Applicant(s)

MORGAN ET AL.

Examiner

Angela A. Armstrong

Art Unit

2741

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to. Correction is required. See MPEP § 608.01(b).

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 09/213,856. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims includes the limitations of predetermining a plurality of speech commands associated with a corresponding plurality of system actions, detecting speech commands and words associated with speech commands, displaying speech commands, performing the corresponding system action if a particular command is selected. The inventions differ only in detecting the words associated with the speech commands.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldhor et al.  
(US Patent No. 5,231,670).

Regarding claims 1, 6, and 11,

Predetermining a plurality of speech commands each associated with a corresponding plurality of system actions is taught by Goldhor at col. 3, lines 37-62 continuing to col. 4, lines 16-29;

Concurrently detecting speech commands and speech queries is taught by Goldhor et al. at col. 3, lines 37-62;

Carrying out the system action corresponding to the command is taught by Goldhor et al. at col. 5, lines 40-55; col. 9, lines 30-68 continuing to col. 13, lines 1-18;

Attempting to locate commands applicable to said query is taught by Goldhor et al. at col. 4, lines 39-57 and col. 8, lines 3-38;

Regarding claims 2, 7, and 12

Displaying detected speech query is taught by Goldhor et al. at col. 5, lines 40-55.

Regarding claims 3, 8, and 13

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Displaying located commands is taught by Goldhor et al. at col. 5, lines 40-55.

Regarding claims 4, 9, and 14

User may speak a displayed located command to activate said means for carrying out a system action is taught by Goldhor et al. at col. 5, lines 40-55; col. 9, lines 30-68 continuing to col. 13, lines 1-18.

Regarding claims 5, 10, and 15

Replaces said prior query with a new speech query is taught by Goldhor et al. at col. 3, lines 37-62; col. 5, lines 40-55; col. 9, lines 30-68 continuing to col. 13, lines 1-18.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Baker (US Patent No. 4,866,778) discloses an interactive speech recognition apparatus which displays the best scoring words of a recognition of the user and allows the user to chose a desired word from the displayed words.

Van Kleeck et al. (US Patent No. 5,890,122) discloses a voice controlled computer method and system for communicating instructions to an application program in response to spoken commands, which provides a visual display of a list of available commands.

Gould et al. (US Patent No. 6,088,671) discloses a method for continuous speech recognition of text and commands which provides a visual display of recognized available commands.

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Rozak (US Patent No. 5,864,815) discloses a method and system for displaying speech recognition status information which recognizes help commands, displays the recognized help command and other applicable commands.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on 703-308-4825. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6306 for regular communications and 703-308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

As of October 2, 2000 the former Technology Center 2700 has been split into two centers (TC 2100 and TC 2600), and former Art Unit 2741 has been designated as **Art Unit 2641**, which new AU number should be used in all future correspondence.

AAA  
October 1, 2000

  
**DAVID R. HUDSPETH**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 2700**